

PUBLIC SANCTIONS

FY 2004

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BEFORE THE STATE COMMISSION ON JUDICIAL CONDUCT

CJC No. 02-0983-JP

PUBLIC REPRIMAND

**HONORABLE SALVADOR ZARATE
JUSTICE OF THE PEACE, PRECINCT 3, PLACE 1
GRULLA, STARR COUNTY, TEXAS**

During its meeting in Austin, Texas, on August 6-8, 2003, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Salvador Zarate, Justice of the Peace, Precinct 3, Place 1, Grulla, Starr County, Texas. Judge Zarate was advised by letter of the Commission's concerns and provided a written response. Judge Zarate appeared with counsel before the Commission on August 6, 2003, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all relevant times, Judge Salvador Zarate was the Justice of the Peace for Precinct 3, Place 1, Grulla, Starr County, Texas.

2. On February 16, 2000, Judge Zarate was stopped by Texas Department of Public Safety (“DPS”) Trooper Benito Reyes and charged with the offense of driving while intoxicated.
3. The February 16, 2000 arrest described above received local media attention.
4. On October 5, 2000, Judge Zarate was returning home from a birthday party when he was stopped by DPS Trooper Aaron De La Garza and charged with driving while intoxicated.
5. On June 21, 2003, Judge Zarate was stopped by DPS Trooper David Herrera and charged with the offense of driving while intoxicated.
6. Judge Zarate testified that he had identified himself as the justice of the peace to DPS Trooper Herrera and then asked, “Can you give me break?”
7. Judge Zarate testified that he had not had a drink of alcohol since October 5, 2000, but that he began drinking again on March 31, 2003, after receiving notification of the Commission’s investigation into his driving while intoxicated arrests.
8. In his testimony before the Commission, Judge Zarate admitted to consuming alcohol while under stress.
9. Judge Zarate has never participated in any alcohol treatment program.
10. The three driving while intoxicated charges against Judge Zarate remain pending.

RELEVANT STANDARD

Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas justice or judge may be disciplined for willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.

CONCLUSION

The Commission finds from the evidence presented that Judge Zarate’s arrests for driving while intoxicated severely compromised the public’s confidence in the integrity of the judiciary. The Commission concludes that Judge Zarate’s actions cast public discredit upon the judiciary in violation of Article V, §1-a(6)A of the Texas Constitution.

In condemnation of the above-described conduct that violated Article V, §1-a(6)A of the Texas Constitution, it is the Commission’s decision to issue a **PUBLIC REPRIMAND** to Judge Salvador Zarate, Justice of the Peace for Precinct 3, Place 1, Grulla, Starr County, Texas.

Pursuant to the authority contained in Article V, §1-a(8) of the Texas Constitution, it is ordered that the conduct described above be made the subject of a **PUBLIC REPRIMAND** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this __9th__ day of September, 2003.

ORIGINAL SIGNED BY

Honorable Kathleen Olivares, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC Nos. 02-0186-JP, 02-0389-JP, AND 02-0420-JP

AMENDED PUBLIC ADMONITION

**HONORABLE HAZEL LEWIS
FORMER JUSTICE OF THE PEACE, PRECINCT 2
MARLIN, FALLS COUNTY, TEXAS**

During its meeting on October 8-10, 2003, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Hazel Lewis, former Justice of the Peace for Precinct 2, Marlin, Falls County, Texas, and current Municipal Court Judge for the City of Marlin. Judge Lewis was advised by letter of the Commission's concerns and provided a written response. Judge Lewis appeared before the Commission on October 10, 2003, and gave testimony. After considering the evidence, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

4. At all times relevant hereto, the Honorable Hazel Lewis was the Justice of the Peace for Precinct 2, in Marlin, Falls County, Texas.
5. Judge Lewis has since retired from the position of justice of the peace, but she currently serves as a municipal court judge for the City of Marlin.

CJC No. 02-0186-JP

6. On October 1, 2001, Onesima Ocampo entered Judge Lewis' court for the purpose of filing a forcible entry and detainer lawsuit.
7. After filling out the appropriate forms and paying a filing fee of \$65, Ocampo waited to hear from the judge about service of citation on her tenant.

8. Being unable to obtain a status report from the judge or to secure a hearing date within one month of filing her lawsuit, Ocampo sought the advice of Marlin attorney Stephen Johnson.
9. After consulting with Ocampo, Johnson excused himself in order to go to the judge's court to seek information about the Ocampo lawsuit. After visiting with Judge Lewis, Johnson returned to his office where he told Ocampo that the judge had informed him that she had previously set the matter for trial, that she had notified Ocampo of this trial setting, and, when Ocampo failed to appear at trial, Judge Lewis entered a default judgment against Ocampo.
10. Ocampo confronted the judge about what Johnson had told her. When Ocampo informed the judge that she had never been notified of a trial setting, Judge Lewis called her a liar and insisted that Ocampo had been properly informed of the hearing.
11. In her testimony before the Commission, Judge Lewis was unable to recall ever speaking to Johnson about the Ocampo lawsuit.
12. Subsequently, after much prodding from Ocampo, Judge Lewis returned the \$65 filing fee.
13. Although she acknowledged that she had received the filing fee from Ocampo, Judge Lewis, in her testimony before the Commission, denied that the lawsuit had ever been filed.

CJC No. 02-0389-JP

11. Bonnie McBee lives in Falls County, outside the Marlin city limits. According to McBee, she rescues dogs and finds adoptive homes for them.
12. McBee was accused by a neighbor of having unvaccinated dogs on her property, and of illegally dumping a dead dog on the neighbor's property.
13. According to Judge Lewis, the neighbor complained to her about the situation on McBee's property, but in her appearance before the Commission, Judge Lewis was unable to recall if the complaint made to her was reduced to writing.
14. Judge Lewis visited McBee's property and threatened McBee with arrest if she did not have the dogs properly vaccinated.
15. Ultimately, the judge opened a criminal complaint file against McBee, charging her with not having vaccinations for 23 dogs.
16. According to Judge Lewis, after McBee showed her proof of having all of the dogs vaccinated, she had McBee pay a \$230.00 administrative fee to dismiss the complaint. At her appearance before the Commission, Judge Lewis testified that this amount was arrived at by charging \$10.00 per unvaccinated dog.
17. McBee did not plead guilty or *nolo contendere* to the charge, was not found guilty of the charge after a trial, and, as a result, was never placed on deferred adjudication.

CJC No. 02-0420-JP

18. Tana Nichols was a traffic defendant in Judge Lewis' court. She had been cited for driving 82 m.p.h. in a 55 m.p.h. zone.
19. Nichols contacted Judge Lewis by phone in order to contest the ticket, but Judge Lewis refused to allow her to do so.
20. During their phone conversation, Judge Lewis commented on the expensive car that Nichols was driving at the time she was cited. The judge stated that Nichols did not need to contest the matter, nor did she need an extension of time in order to pay the fine.
21. Ultimately, Nichols was ordered by Judge Lewis to pay a total of \$380.00 to resolve the matter, and Nichols was given a "deferred disposition" by the judge.
22. The amount of \$380.00 consisted of \$255.00 as a fine, \$100.00 as a "Deferred" fee, and a charge of \$25.00, indicated on the docket sheet as "T. Pay."
23. There is no evidence that Nichols pleaded either guilty or *nolo contendere* to the charge against her, nor that she was found guilty after a trial.

RELEVANT STANDARDS

1. Canon 3B(2) of the Texas Code of Judicial Conduct states, in relevant part, that "[a] judge should be faithful to the law and shall maintain professional competence in it."
2. Canon 3B(4) of the Texas Code of Judicial Conduct states, in relevant part, that "[a] judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity,"
3. According to Art. 45.051(c) of the Texas Code of Criminal Procedure, a court can collect a "special expense" in lieu of a fine only after a deferral period has been served, and after the defendant has complied with any other requirements imposed at the time of the finding of guilt.

CONCLUSION

The Commission concluded from the facts and evidence before it that Judge Lewis displayed a failure to maintain competence in the law, in violation of Canon 3B(2) of the Texas Code of Judicial Conduct, in her handling of the cases of Onesima Ocampo, Bonnie McBee, and Tana Nichols. Specifically, the "administrative fee" charged to McBee by Judge Lewis was an inappropriate "special expense," and that it was inappropriate for Judge Lewis to order Nichols to pay both a fine and a "Deferred" fee in order to dispose of the charge against her. Further, in the cases of Ocampo and Nichols, the Commission concluded that Judge Lewis failed to be patient, dignified, and courteous, in violation of Canon 3B(4) of the Texas Code of Judicial Conduct.

In condemnation of the conduct violative of Canons 3B(2) and 3B(4) of the Texas Code of Judicial Conduct recited above, it is the Commission's decision to issue a **PUBLIC ADMONITION** to the Honorable Hazel Lewis, Justice of the Peace for Precinct 2, Marlin, Marlin County, Texas.

Pursuant to the authority contained in Article 5, Section 1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC ADMONITION** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the ____28th____ day of October, 2003.

ORIGINAL SIGNED BY

Honorable Kathleen Olivares, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 02-0676-MU

AMENDED PUBLIC REPRIMAND

**HONORABLE ROY W. RICHARD, JR.
MUNICIPAL COURT JUDGE
GARDEN RIDGE, COMAL COUNTY, TEXAS**

During its meeting in Austin, Texas, on December 3-5, 2003, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Roy W. Richard, Jr., Municipal Court Judge for the City of Garden Ridge, Comal County, Texas. Judge Richard was advised by letter of the Commission's concerns and provided a written response. Judge Richard appeared with counsel before the Commission on October 9, 2003, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Roy W. Richard, Jr. was a part-time municipal court judge for the Cities of Marion, Garden Ridge, Universal City, and Cibolo, Texas.
2. In 1998, Judge Richard's law partner, James Lebron Champion, was prosecuted for, and later convicted of, the federal offenses of conspiracy to commit mail fraud, conspiracy to commit money laundering, and attempted commission of murder for hire, for which Champion was sentenced to 170 months in federal prison. Judge Richard testified as a witness in that criminal trial in exchange for "use" immunity from criminal prosecution.
3. On April 24, 2001, as a result of the filing of charges against him by the State Bar of Texas, Judge Richard executed an "Agreed Judgment of Fully Probated

Suspension,” which was entered on May 9, 2001, in Cause No. 2001-CI-05430, in the 285th Judicial District Court of Bexar County, Texas.

4. The disciplinary action, which is a matter of public record, involved Judge Richard’s violation, as a lawyer, of Rule 8.03(a) of the Texas Disciplinary Rules of Professional Conduct, which requires “. . . a lawyer having knowledge that another lawyer has committed a violation . . . that raises a substantial question as to that lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate disciplinary authority.”
5. As a result of the public nature of the disciplinary action taken against him by the State Bar of Texas, Judge Richard was asked to resign as judge by two of the four municipalities for which he served.
6. In his testimony before the Commission, Judge Richard admitted that, during a time when he held office as a municipal judge, he was aware that lawyers in his firm engaged in the practice of “case running” and splitting professional fees with non-lawyers. The judge also was aware that tax returns prepared for the law firm did not reflect the use of runners and the payment of professional fees to these non-lawyers.
7. Judge Richard further testified that he took no action to report the lawyers in his firm to the State Bar of Texas or to any other appropriate authority for engaging in the conduct described above.
8. Judge Richard further testified that from approximately 1985 through 1995, during a time when he also held office as a municipal judge, he had participated to some extent in the law firm practices described above.
9. Judge Richard further testified that he was aware that the practices described above violated Texas law.
10. Judge Richard has never been charged criminally for his involvement in the activities described above.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas justice or judge may be disciplined for willful or persistent conduct that casts public discredit upon the judiciary.
2. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”
3. Canon 3D(2) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge having knowledge that a lawyer has committed a violation of the Texas Disciplinary Rules of Professional Conduct that raises a substantial question as to the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects shall inform the Office of the General Counsel of the State Bar of Texas or take other appropriate action.”

CONCLUSION

The Commission concludes from the facts and evidence presented that by failing to report lawyers who he knew were engaged in unethical, and in some cases, illegal activities, and by participating himself in some of these same unethical and illegal activities while also serving as a member of the judiciary, Judge Richard failed to comply with the law and engaged in willful conduct that cast public discredit upon the judiciary. The Commission concludes that the judge's actions constituted willful or persistent violations of Article V, Section 1-a(6)A of the Texas Constitution, and Canons 2A and 3D(2) of the Texas Code of Judicial Conduct.

In condemnation of the conduct described above that violated Article V, Section 1-a(6) of the Texas Constitution and Canons 2A and 3D(2) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable Roy W. Richard, Jr., Municipal Judge for the City of Garden Ridge, Comal County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC REPRIMAND** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this __28____ day of January, 2004.

ORIGINAL SIGNED BY

Honorable Joseph B. Morris, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 03-0613-MU

PUBLIC WARNING

**HONORABLE FREDRICK B. WEBBER
MUNICIPAL COURT JUDGE
CITY OF HEARNE, ROBERTSON COUNTY, TEXAS**

During its meeting in Austin, Texas, on June 9-11, 2004, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Fredrick B. Webber, Municipal Court Judge for the City of Hearne, Robertson County, Texas. Judge Webber was advised by letter of the Commission's concerns and provided a written response. Judge Webber appeared with counsel before the Commission on February 12, 2004, and gave testimony. After considering the evidence before it, including a tape-recorded telephone conversation referred to below, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Fredrick B. Webber was a municipal court judge for the City of Hearne, located in Robertson County, Texas.
2. In or around October 2002, Jim Davis was a candidate for Robertson County Precinct 2 Commissioner.
3. On or about October 31, 2002, Judge Webber approached Davis and offered to help Davis secure 100 election votes for and in consideration of \$500.00.
4. In a November 1, 2002 a tape-recorded telephone conversation with Davis, Webber represented that if he (Webber) ever ran for a county-wide position he would "pick up" about 3,000 absentee votes; but explained that one must have the money to accomplish this goal.

5. Webber predicted that Precinct 2 would not have a big turnout and expressed his concern that Davis could have 100 absentee votes that would not go his way.
6. Webber suggested that the 900 absentee voters Webber got out of Precinct 2 did not vote for themselves.
7. Webber acknowledged that he and a person named “Charles” went to see the absentee voters.
8. Webber stated that the absentee voters trusted him.
9. Webber further explained that the people “who did the absentees” waited until Webber came by and asked him how to vote.
10. Webber acknowledged to Davis that it was up to Davis if he wanted to take the “chance,” but that he (Webber) was used to it.
11. Webber admitted that it would cost \$500.00 for 100 votes.

RELEVANT STANDARD

Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas justice or judge may be disciplined for willful or persistent conduct that casts public discredit upon the judiciary.

CONCLUSION

The Commission concludes from the facts and evidence presented that by acting as an intermediary in an effort to secure votes to benefit a candidate for Robertson County Commissioner, Judge Webber engaged in willful or persistent conduct that casts public discredit upon the judiciary, in violation of Article V, Section 1-a(6)A of the Texas Constitution.

In condemnation of the conduct described above that violated Article V, Section 1-a(6)A of the Texas Constitution, it is the Commission’s decision to issue a **PUBLIC WARNING** to the Honorable Fredrick B. Webber, Municipal Judge for the City of Hearne, Robertson County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC WARNING** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this ____11th____ day of June, 2004.

ORIGINAL SIGNED BY

Honorable Joseph B. Morris, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 04-0285-JP

PUBLIC ADMONITION

**HONORABLE ALONZO VILLARREAL
JUSTICE OF THE PEACE, PRECINCT 1, PLACE 1
ALICE, JIM WELLS COUNTY, TEXAS**

During its meeting on June 9-11, 2004, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Alonzo Villarreal, Justice of the Peace for Precinct 1, Place 1, Alice, Jim Wells County, Texas. Judge Villarreal was advised by letter of the Commission's concerns and provided a written response. Judge Villarreal appeared before the Commission with counsel on June 10, 2004, and gave testimony. After considering the evidence, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Alonzo Villarreal was the Justice of the Peace for Precinct 1, Place 1, Alice, Jim Wells County, Texas.
2. On or about November 5, 2003, Juan Miguel Marquez approached Judge Villarreal in chambers and asked him to contact Judge Jerry Barker, a municipal court judge in Falfurrias, to discuss Mr. Marquez's traffic citation that was pending in Judge Barker's court.
3. Judge Villarreal telephoned Judge Barker to discuss Mr. Marquez's ticket. At Mr. Marquez's request, Judge Villarreal asked Judge Barker if he would allow Mr. Marquez to pay court costs only and place him on deferred adjudication.
4. Judge Barker told Judge Villarreal that his call and request were an inappropriate use of his judicial office.

5. In response to Judge Barker's comments, Judge Villarreal told Judge Barker that "we judges help each other," or words to that effect.
6. In his written responses to and appearance before the Commission, Judge Villarreal identified Mr. Marquez as a "constituent," and stated that it is a common practice for judges in his area to call each other "for information, options and/or explanations, when requested by citizens."
7. Judge Villarreal also testified that he would not have made the request for deferred adjudication had he known that Mr. Marquez had a commercial driver's license.

RELEVANT STANDARD

Canon 2B of the Texas Code of Judicial Conduct states, in relevant part, that "A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge."

CONCLUSION

The Commission concludes from the facts and evidence before it that by placing the telephone call to Judge Barker to discuss Mr. Marquez's traffic ticket, Judge Villarreal was using his position as a judge to gain favorable treatment for Mr. Marquez, in violation of Canon 2B of the Texas Code of Judicial Conduct.

In condemnation of the conduct violative of Canon 2B of the Texas Code of Judicial Conduct recited above, it is the Commission's decision to issue a **PUBLIC ADMONITION** to the Honorable Alonzo Villarreal, Justice of the Peace for Precinct 1, Place 1, Alice, Jim Wells County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC ADMONITION** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the ____25th____ day of June, 2004.

ORIGINAL SIGNED BY

Honorable Joseph B. Morris, Chair
State Commission on Judicial Conduct